

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff.

v.

YAMIL H. KOURI PEREZ, ET AL

Defendants.

CASE: 97-CR-91 (JAF)

**REPLY TO DEFENDANT'S MOTION TO COMPEL THE GOVERNMENT
TO INFORM AMOUNTS OF RESTITUTION PAID BY CO-DEFENDANT
LUIS DUBON AND FOR OTHER RELIEF**

TO THE HONORABLE COURT:

NOW COMES the United States of America, by and through the undersigned Assistant United States Attorney, and files this response to the motion filed by the defendant, Yamil H. Kouri Pérez, requiring information regarding the amount of restitution paid by co-defendant, Luis E. Dubon Otero, and to have such amounts credited to the total amount of restitution due. In response thereto, the government states as follows:

1. In criminal case number 97-CR-091-10 JAF, the Court entered a restitution order against Luis E. Dubon Otero in the amount of \$1,559,828.00, for the benefit of the Department of Health and Human Services (hereinafter "HHS"). As of this date, Mr. Dubon has paid a total of \$1,284,191.00 towards this restitution order.
2. In the same criminal case, the Court entered a restitution order against Yamil H. Kouri Pérez, in the amount of \$1,394,358.95.
3. The defendants were indicted as members of a conspiracy to commit program fraud, in violation of Title 18, United States Code, Section 666 and 371. Therefore, the

defendant's liability should be joint and several. However, the judgments issued as to each defendant are silent as to whether the impositions will be joint and several.

4. The Government agrees with Defendant's counsel with respect to the legal proposition that a victim may not recover more than the amount of its actual loss, which in the instant case is the amount of \$2,279,152.42
5. Attached hereto is a list of the amount of restitutions orders entered against the nine co-defendants in this case, showing a total amount paid of \$1,862,843.46
6. If the amount of restitution payments made by all co-defendants (\$1,862,843.46) are credited against the amount of the actual loss sustained by HHS, (\$2,279,152.42), a total of \$416,308.96 remains outstanding. This amount may be recovered against any of the co-defendants who carry pending balances on their restitution orders:
 - Luis E. Dubon Otero - \$275,637.00 pending collection;
 - Yamil H. Kouri-Pérez - \$ 985,092.00 pending collection;
 - Jeanette Sotomayor - \$25,714.99 pending collection;
 - Armando Borel - \$18, 752.20 pending collection;
 - Angel Corcino Mauras - \$104,294.23
 - Julio Corcino Mauras - \$109,094.23.
7. The government should be able to collect the \$416,308.96 from the balances pending for any of the co-defendants, up to the amount of the restitution order. When the balance of \$416,308.96 has been collected, then any outstanding balances remaining on the restitution orders for any of the nine co-defendants will have been satisfied, since HHS will have recovered the full amount of its actual loss.
8. Accordingly, the restitution paid by Dubon, \$1,284,191.00, should be credited to the

total amount of restitution imposed and owing to HHS. This amount, and the fine of \$125,000.00 should be disbursed by the Finance Division of the Clerk's Office to the victim HHS and to the Crime Victim Fund, respectively.

9. As to defendant Kouri, the Court may credit the money deposited in "SADF" of the USMS, in the amount of \$408,296.46, which will leave a pending balance of \$985,092.00, which is still owed towards his restitution order.

WHEREFORE, the government respectfully requests:

- that this Honorable Court take notice of the representations made herein; and,
- issue an order addressed to the Clerk of the Court- Finance Division- directing said division that from the monies deposited in Dubon's account, on March 31, 2006 as per receipt number 108-162140, the amount of \$1,284,191.00 should be credited and disbursed towards the satisfaction of his restitution and the amount of \$125,000.00 to be credited and disbursed towards the Crime Victim Fund; and further,

- an order addressed to the Clerk of the Court- Finance Division- directing said division to credit the money that was deposited in "SADF" of the USMS, in the amount of \$408,296.46 towards the satisfaction of the restitution of Yamil Kouri, if not done yet; and further,

- an order finding that the amount of \$416,308.96 is still owing on the restitution owed to HHS.

CERTIFICATE: I hereby certify that on this same date I filed the instant document, via

CM/ECF, which will automatically notify all participants:

At San Juan, Puerto Rico this 21st day of May, 2007.

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